

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

JIN M. CAO et al.,

Plaintiffs,

- against -

WU LIANG YE LEXINGTON
RESTAURANT, INC. et al.,

Defendants.

- - - - -x

CHIN, District Judge

At a hearing on October 7, 2009, I granted defendants' counsel's application to be relieved as counsel for defendants. I set a deadline for new counsel to appear on behalf of defendants by noon today, October 8, 2009. This morning, attorney Bing Li wrote to the Court to express his intention to file a notice of limited appearance, and asking for an extension to file a notice of appearance until 1 p.m. The Court did not receive any notices of appearance by the deadline. Subsequently, my Chambers received a phone call from Mr. Li, who advised that he was not experienced in FLSA matters and that another attorney to whom defendants have been speaking declined to take on the matter.

For many months defendants have been advising that they had no intention of defending this case and that they would be prepared to accept a default judgment. Defendants were advised of the October 13, 2009 trial date on August 21, 2009; hence, they had seven weeks' notice of the trial date. On September 30, 2009 and October 7, 2009, defendants requested a

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/08/09

ORDER

08 Civ. 3725 (DC)

two-week adjournment to seek another attorney to take over the case. Today, defendant Jian Li wrote to the Court requesting a 45-day adjournment. I denied the requests.

Defendants failed to submit their portions of the pretrial order. Defendants, on the eve of trial, have closed both restaurants that are the subject of this action. Plaintiffs are prepared to go forward with trial, and they would be prejudiced if the trial is adjourned now. Defendants are hereby deemed in default.

The Court will enter a default judgment against defendants. The Court will conduct an inquest to set damages, attorneys' fees, and costs. Plaintiffs shall submit proposed damages awards and apply for attorneys' fees and costs by November 4, 2009. These papers will be deemed plaintiffs' "direct case" with respect to damages. Defendants will respond by November 25, 2009. The Court will hear the parties on December 11, 2009, at 2 p.m. At the hearing, the parties need not call witnesses, unless testimony is required to resolve factual disputes.

The trial is cancelled.

SO ORDERED.

Dated: New York, New York
October 8, 2009


Denny Chin
United States District Judge